



U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

10/27

STATEMENT OF SUBSTANCE OF INTERVIEW

Docket Number
11411/11502

Application No.
10/799,038

Filing Date
March 11, 2004

Examiner
Frank CHOI

Art Unit
1616

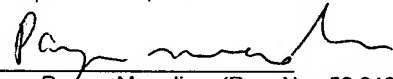
Invention Title:
FOOD SUPPLEMENT FOR INCREASING LEAN
MUSCLE MASS AND STRENGTH

Inventor(s)
Paul T. GARDINER et al.

Address to:
Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 2231301450

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop: Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

Date: September 27, 2007

By: 
Payam Moradian (Reg. No.: 52,048)

STATEMENT OF SUBSTANCE OF INTERVIEW

Remarks begin on page 2 of this paper.

REMARKS

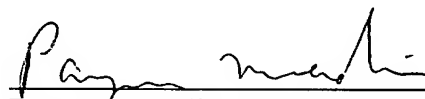
The Applicants appreciate the courtesy interview granted on August 28, 2007 at the USPTO. The undersigned, James Ramsbottom, and examiner Frank Choi and examiner Johann Richter were present during the interview. The prior art discussed during the interview was those applied by examiner Choi in the Office Action of June 28, 2007, particularly Ostlund (U.S. Pat. 5,550,166) and the Goldberg Abstracts. The undersigned argued that that the rejection of the claims under 35 U.S.C. § 103 was improper. Examiner Choi conceded that none of the references applied in the office Action teach or suggest use of inositols to enhance muscle size and strength as claimed. Urbano *et al.* (*J. Physio. Biochem* 56(3) 283-294, 2000) was also brought to the attention of the examiner for teaching away from the claimed invention since it discloses that phytic acid (6-phosphate ester of inositol) has an anti-nutritional effect. An agreement was reached for examiner Choi and examiner Richer to have an allowance conference on the case with another examiner. Subsequently, examiner Choi called the undersigned and stated that a decision was made to maintain the 103 rejection.

During the course of the interview, no other pertinent matters were discussed.

Respectfully submitted,

Dated: September 27, 2007

Customer Number 26646


Payam Moradian (Reg. No. 52, 048)
KENYON & KENYON LLP
One Broadway
New York, N.Y. 10004
(212) 425-7200 (telephone)
(212) 425-5288 (facsimile)